

PART 1980 - GENERAL

Subpart A - General

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Exhibits to Subpart A

Appendix A - Form RD 449-34, "Loan Note Guarantee" (Published in Federal Register only).

Appendix B - Form RD 449-35, "Lender's Agreement" (Published in Federal Register only).

Appendix C - Form RD 449-36, "Assignment Guarantee Agreement" (Published in Federal Register only).

PART 1980 - GENERAL

Subpart A - General

§ 1980.1 Purpose.

This subpart contains the general regulations and prescribed forms which are applicable to the Community Programs Guaranteed Loans under Subpart I of this part. (Revised 07-02-99, SPECIAL PN.)

§§ 1980.2 - 1980.5 [Reserved]

§ 1980.6 Definitions and abbreviations.

(a) General definitions. The following general definitions are applicable to the terms used in this part. Additional definitions may be found in the subparts relating to the particular type of loan involved. (Revised 07-02-99, SPECIAL PN.)

Assignment Guarantee Agreement (Form RD 449-36). The signed agreement among the Agency, the lender, and the holder, setting forth the terms and conditions of an assignment of a guaranteed portion of a loan or any part thereof.

Conditional Commitment for Guarantee (Form RD 449-14). The Agency's advice to the lender that the material it has submitted is approved subject to the completion of all conditions and requirements set forth in "Conditional Commitment for Guarantee."

Finance Office. The office which maintains the Agency's financial records. It is located at 1520 Market Street, St. Louis, Missouri 63103.

FmHA. The United States of America, acting through the Farmers Home Administration or its successor Agency under Public Law 103-354, an agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, State Director, District Director, County Supervisor, or other Agency offices or officials should be read as prefaced by "FmHA or its successor Agency under Public Law 103-354."

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Guaranteed Loans  
General

Guaranteed loan. A loan made and serviced by a lender for which RD or its successor agency has entered into a Form RD 449-35 "Lender's Agreement," and for which RD or its successor agency has issued a Form RD 449-34, "Loan Note Guarantee."

Hazard insurance. Includes fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workers' compensation, or any similar insurance that is available and needed to protect the security, or that is required by law.

Holder. The person or organization other than the lender who holds all or a part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the guaranteed portion of the loan with proceeds from any obligation, the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). When the lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a holder when Form RD 449-36, "Assignment Guarantee Agreement," is used.

Insured loans. A loan directly made and serviced by RD as lender with funds from the Rural Development Insurance Fund, Rural Housing Insurance Fund, or Agricultural Credit Insurance Fund.

Joint financing. Occurs when two or more lenders (or any combination of such lenders) make separate loans to supply the funds required by one applicant. For example, such joint financing may consist of Agency financial assistance with the Economic Development Administration (EDA), Department of Housing and Urban Development (HUD), Small Business Administration (SBA), other Federal and State agencies, and private and quasi-public financial institutions.

Lender. The person or organization making and servicing the loan or advancing and servicing the line of credit which is guaranteed under the provisions of the appropriate subpart. The lender is also the party requesting a guarantee.

Lender's Agreement (Form RD 449-35). The signed agreement between Rural Development and the lender setting forth the lender's loan responsibilities when the Loan Note Guarantee is issued.

§ 1980.6(a) (Con.)

Loan Note Guarantee (Forms RD 449-34). The signed commitment issued by the Agency setting forth the terms and conditions of the guarantee.

Market value. The amount for which property would sell for its highest and best use at voluntary sale.

Note. An evidence of debt. In those instances where the Agency makes an insured loan or guarantees a bond issue, "note" shall also be construed to include "Bond" or other evidence of indebtedness where appropriate.

Principals of borrowers. Includes owners, officers, directors, entities and others directly involved in the operation and management of a business.

Transfer and assumption. The conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of the loan in return for the assuming party's binding promise to pay the debt outstanding. In relation to transfer and assumption cases, where appropriate, "liquidation" and "loan" shall be construed to mean "transfer and assumption," "promissory note" shall be construed to mean "assumption agreement," and "borrower" shall be construed to mean "assuming party" or "transferee."

(b) Abbreviations. The following abbreviations are applicable.  
(Revised 07-02-99, SPECIAL PN.)

CP - Community Programs

EDA - Economic Development Administration

EPA - Environmental Protection Agency

EIS - Environmental Impact Statement

FDAA - Federal Disaster Assistance Administration

FIA - Federal Insurance Administration

§§ 1980.7 - 1980.10 [Reserved]

§ 1980.11 Full faith and credit.

The Loan Note Guarantee constitutes obligations supported by the full faith and credit of the United States and are incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. Generally, any Loan Note Guarantee, or Assignment Guarantee Agreement attached to or relating to a note which provides for payment of interest on interest is void. The guarantee and right to require purchase will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the Loan Note Guarantee by lender. The Loan Note Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, negligent servicing or failure to obtain the required security regardless of the time at which the Agency acquires knowledge of the foregoing. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid. The Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder shall not cover interest accruing 90 days after the holder has demanded repurchase by the lender, nor shall the Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder cover interest accruing 90 days after the lender or the Agency has requested the holder to surrender the evidence of debt for repurchase. (Revised 07-02-99, SPECIAL PN.)

§ 1980.12 Case and identification (ID) numbers.

(a) Case number. The case number will be the applicant's (borrower's), or transferee's Social Security or Internal Revenue Service (IRS) tax number, whichever is appropriate.

(1) If such party is an individual, his or her Social Security number will be used. If such party is husband and wife, the Social Security number of either one as designated by the spouses will be used. (Revised 02-25-87, PN 41.)

(2) If such party is a legal entity, its IRS tax number will be used.



§ 1980.12(a) (Con.)

(3) The applicant's Social Security or IRS tax number preceded by State and County Code Numbers will constitute the entire case number to be used on all agency forms. The County Supervisor will provide the lender with these numbers, except for B&I cases where the State Director will provide the lender with these numbers.  
(Revised 02-25-87, PN 41.)

(b) ID number of lender and holder. The lender's and holder's IRS tax number will be used as its ID number in correspondence and agency forms relating to the guarantee.

§ 1980.13 Eligible lenders.

(a) Local lenders. Local lenders may participate by using the various sources of capital and segments of money market to meet the necessary financing requirement for guaranteed loan programs. Except in paragraphs (a)(1) and (2) of this section, the Agency will require that a local lender be involved for each project. A local lender is a lender in or near a community where the project is or will be located who routinely provides loan services to such community. Although the project may involve other lenders, investors, or packagers, the local lender will be the lead lender and the lender for purposes of these regulations responsible for servicing and liquidations (if necessary) of the loan. The lender may use agents, correspondents, branches, financial experts, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. The Agency will use the lender as the point of contact of the administration of the program. The Agency may also permit a lender to be the lender for the loan without being local if: (Revised 12-23-96, SPECIAL PN.)

(1) the lender normally makes loans in the region or geographic location in which the applicant's project being financed is located;  
or

(2) the lender has specific expertise in loans for the proposed project and provides evidence of such expertise to the satisfaction of the Agency. (Revised 12-23-96, SPECIAL PN.)

(b) An eligible lender is: Any Federal or State chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, Bank for Cooperatives, Savings and Loan Association, Building and Loan Association, or mortgage company that is part of a bank-holding company. These entities must be subject to credit examination and supervision by either an agency of the United States or a State. Eligible lenders may also include credit unions that are subject to credit examination and supervision by either the National Credit Union Administration or a State agency or an insurance company that is regulated by a State or National insurance regulatory agency. Only those lenders listed in this paragraph are eligible to make and service guaranteed loans, and such lenders must be in good standing with their licensing authority and have met licensing, loan making, loan servicing, and other requirements of the State in which the collateral will be located and the loan making and loan servicing office requirements in paragraph (b)(3) of this section. A lender must have the capability to adequately service the loan for which a guarantee is requested. (Revised 07-02-99, SPECIAL PN.)

(1) Participation. Lenders who are not eligible lenders are not barred from participating in loans made by eligible lenders.

(2) Lender notification. Each lender will inform the Agency whether it qualifies for eligibility under this section and which agency or authority, if any, supervises such lender. This information will be furnished to the Agency with such proofs as the Agency may require. (Revised 07-02-99, SPECIAL PN.)

(3) Lender location. Each lender must maintain an office (either its main or branch office or that of an agent) near enough to the collateral's location so it can properly and efficiently discharge its loan making and loan servicing responsibilities.

(4) Conflict of interest. The Agency shall determine whether such ownership or business dealings are sufficient to result in a conflict of interest or an apparent conflict of interest. All lenders will, for each proposed loan, inform the Agency in writing and furnish such additional evidence as the Agency requests as to whether and the extent for those loans covered by Form RD 449-35, the lender or its principals or officers (including immediate family) or the borrower or its principals or officers (including immediate family) hold any stock or other evidence of ownership in the other. (Revised 07-02-99, SPECIAL PN.)

§ 1980.13(b)(4) (Con.)

(i) For those loans covered by Form RD 449-35, the lender or its principal officers (including immediate family) or the borrower or its principals or officers (including immediate family) hold any stock or other evidence of ownership in the other; or

(ii) For Farm Credit Programs loans covered by Form RD 1980-38, the lender or its officers, directors, principal stockholders or other principal owners or the borrower or its officers, directors, stockholders or other owners have any business dealings with, or hold any stock or other evidence of ownership in, the other. (Revised 10-13-95, SPECIAL PN.)

(5) Debarment. See subpart M of part 1940. (Revised 04-11-89, SPECIAL PN.)

(c) Substitution of lenders. With written concurrence of the Agency, another eligible lender may be substituted for a lender who holds an outstanding Conditional Commitment provided the borrower, loan purposes, scope of project and loan terms remain unchanged. (Revised 07-26-93, SPECIAL PN.)

§§ 1980.14 - 1980.19 [Reserved]

§ 1980.20 Loan guarantee limits. (Revised 01-13-89, SPECIAL PN.)

(a) Lenders and applicants will propose the percentage of guarantee. The Agency will set the percentage of guarantee. Lenders and applicants will be advised in writing on Form RD 449-14 by the Agency of any percentage of guarantee less than proposed by the lender and applicant, and the reasons therefore. (See § 1980.80 of this subpart regarding appeals.) Also the maximum loss covered by Form RD 449-34 (available in any Agency office) can never exceed the lesser of: (Revised 07-02-99, SPECIAL PN.)

(1) The percentage of guarantee of principal and interest indebtedness as evidenced by said note or by assumption agreement, any loan subsidy due, and the percentage of guarantee of principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with the Agency's authorization; or

(2) The percentage of guarantee of the principal advances to or assumed by the borrower under said note or assumption agreement and any interest due (including any loan subsidy) thereon.

RD Instruction 1980-A  
§ 1980.20 (Con.)

(b) The Agency will determine the percentage of guarantee after considering all credit factors involved, including but not limited to:

- (1) Applicant's management. The applicant's management, and when appropriate, equity capital, history of operation, marketing plan, raw material requirements and availability of necessary supporting utilities and services.
- (2) Collateral. Collateral for the loan.
- (3) Financial condition. Financial condition of applicant or applicant's principals, if appropriate.
- (4) Lender's exposure. The lender's exposure before and after the loan.
- (5) Trends and conditions. Current trends and economic conditions.

§ 1980.21 Guarantee fee. (Revised 07-02-99, SPECIAL PN.)

The fee will be the applicable rate multiplied by the principal loan amount multiplied by the percent of guarantee, paid one time only at the time the Loan Note Guarantee is issued.

(a) The fee will be paid to the Agency by the lender and is nonreturnable. The lender may pass on the fee to the borrower.

(b) Guarantee fee rates are specified in Exhibit K of RD Instruction 440.1 (available in any Rural Development Office).

§ 1980.22 Charges and fees by lender.

(a) Routine charges and fees. The lender may establish the charges and fees for the loan, provided they are the same as those charged other applicants for similar types of transactions. "Similar types of transactions" means those transactions involving the same type of loan requested for which a non-guaranteed loan applicant would be assessed charges and fees. (Revised 07-02-99, SPECIAL PN.)

(b) Late payment charges. Late payment charges will not be covered by the Loan Note Guarantee. Such charges may not be added to the principal and interest due under any guaranteed note. Late payment charges may be made only if: (Revised 07-02-99, SPECIAL PN.)

(1) Routine. They are routinely made by the lender in all types of loan transactions.

(2) Payments received. Payment has not been received within the customary time frame allowed by the lender. The term "payment received" means that the payment in cash or by check, money order, or similar medium has been received by the lender at its main office, branch office, or other designated place of payment.

(3) Calculating charges. The lender agrees with the applicant in writing that the rate or method of calculating the late payment charges will not be changed to increase charges while the Loan Note Guarantee is in effect. (Revised 07-02-99, SPECIAL PN.)

§ 1980.23 Prohibition of the guaranteeing of tax-exempt transactions.

(a) The Agency will not guarantee any loan or line of credit made with the proceeds of any obligation the interest on which is excludable from income under Section 103 of the Internal Revenue Code of 1954, as amended (IRC). Funds generated through the issuance of tax-exempt obligations may not be used to purchase the guaranteed portion of any Agency guaranteed loan or line of credit nor may an Agency guaranteed loan or line of credit serve as collateral for a tax-exempt issue.

(b) The only time the Agency may guarantee a loan or line of credit for a project which involves tax-exempt financing is when the guaranteed loan funds are (1) used to finance a part of the project which is separate and distinct from the part of the project which is financed by the tax-exempt issue, and (2) the guaranteed loan or line of credit has at least a parity security position with the tax-exempt obligation.

§§ 1980.24 - 1980.39 [Reserved]

§ 1980.40 Environmental requirements.

The need for an Environmental Impact Statement (EIS) will be determined by the Agency approval official. The determination will be based upon the Agency's completion of the appropriate environmental review and Form RD 1940-20, "Request for Environmental Information," when required as set forth in Subpart G of Part 1940 of this chapter and other agency comments or other information available. If an EIS is necessary, applicants and lenders will be required to provide essential data for use in its preparation. The Agency State Directors will coordinate preparation and processing of any required EIS. If joint financing for the proposal is involved, the lead agency will be responsible for preparation of the EIS. In all cases, the Agency is responsible for assuring that the requirements of §102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), and Subpart G of Part 1940 of this chapter are met. (Revised 10-17-89, SPECIAL PN)

§ 1980.41 Equal opportunity and nondiscrimination requirements.

(a) Equal Credit Opportunity Act. In accordance with Title V of P.L. 93-495, the Equal Credit Opportunity Act, with respect to any aspect of a credit transaction, neither the lender nor the Agency will discriminate against any applicant on the basis of race, color, religion, national origin, age, sex, marital status or physical/mental handicap providing the applicant can execute a legal contract, or because all or part of the applicant's income derives from any public assistance program or because the applicant, in good faith, exercised any rights under the Consumer Protection Act. The lender will comply with the requirements of this Act as set forth in the Federal Reserve Board's Regulation implementing this Act. (See 12 CFR Part 202.) Such compliance will be accomplished prior to loan closing. (Revised 03-19-91, SPECIAL PN.)

(b) Forms and requirements. In accordance with Executive Order 11246, the following equal opportunity and nondiscrimination forms and

## §1980.41(b) (Con.)

requirements are applicable to certain cases involving construction as indicated. The borrower is responsible for seeing that the requirements of paragraphs (b)(1) through (5) of this section are met:

(1) Compliance reports. No prospective contractor or subcontractor will be eligible for a contract or subcontract financed with a guaranteed loan until the contractor has filed all of the compliance reports required under any previous contracts.

(2) Equal Opportunity agreement. Before loan closing, each borrower whose loan involves a construction contract of more than \$10,000 must execute Form RD 400-1, "Equal Opportunity Agreement."

(3) Contract or subcontract in excess of \$10,000. If the contract or a subcontract exceeds \$10,000.

(i) The contractor or subcontractor must submit Form RD 400-6, "Compliance Statement," before or as a part of the bid or negotiation.

(ii) An Equal Opportunity Clause must be part of each contract and subcontract. This clause is incorporated in Form RD 424-6, "Construction Contract," which may serve as a guide.

(iii) With notification of the contract award, the contractor must receive:

(A) Form RD 400-3, "Notice of Contractors and Applicants," signed by the County Supervisor with an attached Equal Employment Opportunity Poster. Posters in Spanish must be provided and displayed where a significant Portion of the population is Spanish speaking.  
(Revised 12-23-96, SPECIAL PN.)

(B) Form AD-425, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375," if the contractor or subcontractor is subject to the requirements of paragraph (5) of this section.

(4) One hundred or more employees and contract or subcontract exceeds \$10,000. If the contractor or subcontractor has 100 or more employees and the contract or subcontract is for more than \$10,000.

(i) In addition to meeting the requirements of paragraph (b)(3) of this section, each such contractor or subcontractor must file Standard Form 100, "Equal Employment Opportunity Employer Information Report EEO-1," with the Joint Reporting Committee within 30 days of the contract or subcontract award unless this report has already been submitted within the last 12 months.

(ii) An annual report must be filed on or before March 31, as long as the contractor or subcontractor holds a contract equal to \$10,000 or more which is financed with a guaranteed loan.

Failure to file timely, complete and accurate reports constitutes noncompliance with the Equal Opportunity Clause. Report forms are distributed by the Joint Reporting Committee and any questions on this form should be addressed by the contractor or subcontractor to the Joint Reporting Committee, 1800 G Street, N.W., Washington DC 20006.

(5) Fifty or more employees and contract or subcontract exceeds \$50,000. If the contract or subcontract is more than \$50,000 and the contractor or subcontractor has 50 or more employees, in addition to the requirements of paragraph (b)(3) of this section, each such contractor or subcontractor must be informed that he must develop a written affirmative action compliance program for each of his establishments and put it on file in each of his personnel offices within 120 days of the commencement of the contract or subcontract. Form AD-425 provides guidelines for the contractor or subcontractor in developing such a program.

(6) Compliance reviews. Compliance reviews must be made during construction inspections to determine whether the required posters are displayed, the facilities are not segregated, and there is no evidence of discrimination in employment. Findings of the borrower or lender (when inspections are made) will be shown on Form RD 424-12, "Inspection Report." If there is any evidence of non-compliance, the borrower or lender will be made to achieve voluntary compliance. If the effort fails, the Compliance Review Officer will report all the facts in writing to the Administrator, ATTN: Equal Opportunity Officer.

(7) Employment complaints. Any employee of or applicant for employment with such contractors or subcontractors may file a written complaint of discrimination with FmHA.

(i) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:



(A) The name and address (including telephone number, if any) of the complainant.

(B) The name and address of the person committing the alleged discrimination.

(C) A description of the acts considered to be discriminatory.

(D) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(ii) Such complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by FmHA for good cause shown by the complainant.

§1980.42 Flood or mudslide hazard area precautions.

(a) Project location. Projects located in special flood or mudslide hazard areas, as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development may be financed under this Subpart only:

(1) If the community, as a result of such designation by FIA as a special flood or mudslide prone area, has an approved flood plain area management plan.

(2) If the project location and construction plans and specifications for new buildings or improvements to existing buildings comply with an approved flood plain area management plan in paragraph (a) (1) of this section.

(3) The requirements of Subpart G of Part 1940 of this chapter have been met.

(b) Flood insurance. If project is located in a special flood or mudslide hazard area and if flood insurance is available it will be purchased by the borrower prior to loan closing. (See Part 1806 Subpart B of this Chapter.) (RD Instruction 426.2).

§1980.43 Clean Air Act and Water Pollution Control Act requirements.

(a) Conditions. As a condition for FmHA's making or guaranteeing a loan in excess of \$100,000 and unless otherwise exempted, an applicant for a loan will:

(1) Comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C., §1857 C-9) and section 308 of the Federal Water Pollution Control Act (33 U.S.C., §1318) relating to inspection, monitoring, entry, reports, and information, as

well as all other requirements specified in section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. (Such regulations and guidelines can be found at 40 CFR 15.4 and 40 F.R. 17126, April 16, 1975.)

(2) Notify the FmHA of the receipt of any communication from the EPA indicating that a facility to be utilized in the carrying out of the FmHA program loan purposes is under consideration to be listed on the EPA List of Violating Facilities. (Prompt notification is required prior to the making of the loan.)

(3) Certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA List of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.

(4) Include, or cause to be included, the criteria and requirements contained in this section in every nonexempt subcontract and will take such action as the Government may direct as a means of enforcing such provisions.

(5) Secure the service of a contractor who agrees to comply with the provisions in paragraph (a) of this section.

(b) Solicitation. Lender will cause to be included in all solicitation and contract provisions the stipulations contained in paragraph (a) of this section, provided the loan amount is \$100,000 or more and not otherwise exempted.

(c) Facility. The term "facility", as used in this section only, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, EPA, determines that independent facilities are located in one geographical area.

(d) Exemptions.

(1) Transactions \$100,000 and under. Any contracts, subcontracts, loans, and subloans not exceeding \$100,000 are exempt.

## § 1980.43(d) (Con.)

(2) Contracts and subcontracts for indefinite quantities.

With respect to contracts and subcontracts for indefinite quantities (including but not limited to time and material contracts, requirements contracts, and basic ordering agreements), this section shall be applicable unless the applicant or borrower has reason to believe that the amount to be ordered in any year under such contract will not exceed \$100,000.

(3) Authority of the Administrator. When the Administrator of the Agency determines that the paramount interest of the United States so requires, he may exempt any individual loan, contract or subcontract or a period of 1 year, and by rule or regulation any class of loans or contracts following consultation with EPA. In the case of an individual exemption, the Administrator shall notify the Director, Office of Federal Activities, EPA, as soon before or after granting the exemption as practicable. The justification for such an exemption or any renewal thereof shall fully describe the purpose of the loan or contract and shall indicate the manner in which the paramount interest of the United States requires that the exemption be made.

(4) Facilities located outside the United States. This section shall not apply to the use of facilities outside the United States. The term "United States" as used herein includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the trust Territories of the Pacific Islands.

§ 1980.44 National Historic Preservation Act of 1966.

As a condition for the Agency making or guaranteeing a loan, the applicant will provide a written statement to the Agency of the effect, if any, the project will have on any district, site, or building, structure, or object that has been included in the National Register of Historic Places as maintained by the Department of Interior in accordance with the National Historic Act, including the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology and culture. (See Part 1901 Subpart F of this Chapter.)

§ 1980.45 Other Federal, State and local requirements.

In addition to the specific requirements of this Subpart, proposals for facilities financed in whole or in part with an Agency loan or guarantee will be coordinated with all appropriate Federal, State and local Agencies in accordance with the following:

(a) Compliance with special laws and regulations. Applicants and/or lenders will be required to comply with any Federal, State or local laws, regulatory commission rules, ordinances, and regulations which are presently in existence or may be later adopted which affect the project including, but not limited to:

- (1) Organization and authority to design, construct, develop, operate, and/or maintain the proposed facilities;
- (2) Borrowing money, giving security therefor, and raising revenues for the repayment thereof;
- (3) Land use zoning;
- (4) Health, safety, and sanitation standards;
- (5) Protection of the environment and consumer affairs.

(b) In compliance. The applicant and/or lender will be in compliance with this section effective with the date of issuance of the Loan Note Guarantee.

§ 1980.46 [Reserved]

§ 1980.47 Timeframe for processing application for loan guarantees.

All guaranteed loan applications must be approved or disapproved, and the lender notified in writing, not later than 60 days after receipt of a completed application, except as noted in paragraph (d) of this section.  
(Revised 02-19-92, PN 182.)

(a) If an application is not complete, the lender will be notified, in writing, not later than 20 days after receipt of the application by the Agency, the reason(s) the application is incomplete.

(b) When an application is disapproved, the written notification to the lender will state the reason(s) for disapproval.

§ 19890.47 (Con.)

(c) When an application is disapproved and subsequent action, as the result of an appeal, reverse or revises the initial decision, the Agency will notify the lender of such action within 15 days after the reversal/revision decision is made. (Added 02-25-86, SPECIAL PN.)

(d) Applications for Community Programs guaranteed loans that would otherwise be disapproved due to lack of guarantee authority to make the loans will be placed in a pending status. The applications will remain in a pending status until guarantee authority becomes available. Within 60 days after guarantee authority becomes available, the Agency will notify the applicants of the approval or disapproval of the loan. (Revised 12-23-96, SPECIAL PN.)

§ 1980.48 Seismic safety of new building construction. (Added 01-10-97, SPECIAL PN.)

(a) The guaranteed loan programs are subject to the provisions of Executive Order 12699 which requires each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings to assure appropriate consideration of seismic safety.

(b) All new buildings shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes or the latest edition of that code providing an equivalent level of safety to that contained in the latest edition of the National Earthquake Hazard Reduction Program's (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Building (NEHRP Provisions):

(1) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(2) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(3) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(c) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications shall be evidence of compliance with the seismic requirements of the appropriate building code.

§§ 1980.48 - 1980.59 [Reserved]

§ 1980.60 Conditions precedent to issuance of the Loan Note Guarantee.  
(Revised 07-02-99, SPECIAL PN.)

(a) Lender certification. Form RD 449-34 will not be issued until the lender certifies that: (Revised 07-02-99, SPECIAL PN.)

(1) No major changes have been made in the lender's loan conditions and requirements since the issuance of the Conditional Commitment for Guarantee, except those approved in the interim by the Agency in writing. (Revised 07-02-99, SPECIAL PN.)

(2) All planned property acquisition has been completed, all development has been substantially completed in accordance with plans and specifications. All costs have not exceeded the amounts approved by the lender and the Agency. (Revised 12-23-96, SPECIAL PN.)

(3) Required hazard, flood, or prevention insurance, worker's compensation and personal life insurance when required is in effect.

(4) Truth in lending requirements have been met.

(5) All equal employment opportunity and nondiscrimination requirements have been or will be met at the appropriate time.

(6) The loan has been properly closed, and the required security instruments have been obtained, or will be obtained on any after acquired property that cannot be covered initially under State law. (Revised 07-02-99, SPECIAL PN.)

(7) The borrower has marketable title to the collateral then owned by the borrower, subject to the instrument securing the loan to be guaranteed and subject to any other exceptions approved in writing by the Agency. (Revised 07-02-99, SPECIAL PN.)

(8) When required, the entire amount of loan for working capital has been disbursed except in cases where the State Director has approved disbursement over an extended time.

(9) When required, personal, partnership or corporate guarantees have been obtained. Copies of the guarantees will be provided to the Agency. (Revised 07-02-99, SPECIAL PN.)

(10) All other requirements of the Conditional Commitment for Guarantee have been met. (Revised 07-02-99, SPECIAL PN.)

§ 1980.60(a) (Con.)

(11) Lien priorities are consistent with requirements of the Conditional Commitment for Guarantee. (Revised 07-02-99, SPECIAL PN.)

(12) The loan proceeds have been disbursed for purposes and in amounts consistent with the Conditional Commitment for Guarantee and as specified on Form RD 449-1, "Application for Loan and Guarantee" or Form RD 1980-10, "Application for Loan and Guarantee" (Community Programs). A copy of a detailed loan settlement statement of the lender will be attached to support this certification. (Revised 07-02-99, SPECIAL PN.)

(13) Equity requirements have been met. A reconciliation of the borrower's net worth from the latest financial statement to the date of loan closing will be provided with this certification.

(14) There has been no adverse change(s) in the borrower's financial condition nor any other adverse change in the borrower during the period of time from the Agency's issuance of the Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee or from the time of the Agency's issuance of the Conditional Commitment for Contract of Guarantee to the issuance of the Contract of Guarantee. The lender's certification must address all adverse changes of the borrower and its guarantors not more than 60 days old at time of certification. For purposes of this paragraph, the term "borrower" includes additionally any parent, affiliate or subsidiary of the borrower.

(b) Inspections. The lender will notify the Agency of any scheduled field inspections during construction and after issuance of the Loan Note Guarantee. The Agency may attend such field inspections. Any inspections or review conducted by the Agency, including those with the lender, are for the benefit of the Agency only and not for other parties of interest. Agency inspections do not relieve any parties of interest of their responsibilities to conduct necessary inspections, nor can these parties rely on Agency inspections in any manner whatsoever. (Revised 07-02-99, SPECIAL PN.)

(c) Execution of form. The lender has executed and delivered to the Agency Form RD 449-35. (Revised 07-02-99, SPECIAL PN.)

(d) Plans for marketing. The lender advises the Agency of its plans to sell or assign any part of the loan as provided in Form RD 449-35.

(e) Additional requirements. See also appropriate Subpart for additional requirements.

§ 1980.61 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement. (Revised 07-02-99, SPECIAL PN.)

(a) Lender's Agreement. If the Agency finds that all requirements have been met: (Revised 07-26-93, SPECIAL PN.)

(1) The lender and the Agency will execute Form RD 449-35. The original will be delivered to the Agency and a signed duplicate original will be retained by the lender. There will be a Form RD 449-35 executed for all loans and lines of credit guaranteed by the Agency. (Revised 07-02-99, SPECIAL PN.)

(2) In all cases, the lender's agreement will be executed no later than the time the Loan Note Guarantee is signed. (Renumbered and revised 07-02-99, SPECIAL PN.)

(b) Loan Note Guarantee.

(1) Upon receipt of the Form RD 449-35, and after all requirements have been met, The Agency will execute Form RD 449-34. All original(s) will be provided to the lender and attached to the note(s). A conformed copy with copies of notes attached will be retained by the Agency. (Revised 07-02-99, SPECIAL PN.)

(2) In the event a lender has made a loan guaranteed by the Agency under previous regulations and has obtained a Form RD 449-17, "Contract of Guarantee," the lender may request the State Director to substitute a Loan Note Guarantee governed in all respects by these regulations for the previously issued Contract of Guarantee. The State Director will review the lender's written request for substitution of guarantees and may authorize the issuance of the new Loan Note Guarantee in exchange for the Contract of Guarantee. The lender will:

(i) Prepare and submit to the Agency a written request for such substituted guarantee.

(ii) Certify to the Agency that there is no adverse change in the borrower's financial situation, the collateral and terms of the loan remain the same as under the original guarantee, and the loan is in good standing.

(iii) Pay the required guarantee fee.

(iv) Certify to the Agency the outstanding principal amount of the loan.

(v) Execute Form RD 449-35.



## § 1980.61(b) (Con.)

(3) If the lender has selected the multi-note system as provided in paragraph III A 2 of Form RD 449-35, a Loan Note Guarantee will be prepared and attached to each note the borrower issues. All the notes will be listed on Form RD 449-34. (Revised 07-02-99, SPECIAL PN.)

(4) If the lender requests a series of new notes to replace previously issued guaranteed notes as provided in paragraph III A 2 (b) of Form RD 449-35, the County Supervisor may reissue the new Loan Note Guarantee in exchange for the original Loan Note Guarantee. (Revised 07-02-99, SPECIAL PN.)

(c) Assignment Guarantee Agreement. In the event the lender assigns the guaranteed portion of the loan to a holder(s) in accordance with the provision of the applicable subpart, the lender, holder, and the Agency will execute Form RD 449-36. The original of the agreement(s) will be provided to the holder with conformed copy(s) to the lender and the Agency. If the lender desires to assign a part(s) of the guaranteed loan to a holder(s), an Assignment Guarantee Agreement will be executed for each assigned portion. Attached to the Assignment Agreement will be a copy of the borrower's note(s) and a copy of the Loan Note Guarantee. (Renumbered and revised 07-02-99, SPECIAL PN.)

(d) Refusal to execute contract. If the Agency determines that it cannot execute the Loan Note Guarantee because all requirements have not been met, it will promptly inform the lender on Form RD 449-13, "Denial Letter," of the reasons, and give the lender a reasonable period within which to satisfy Agency objections. If the lender writes the Agency within the period allowed requesting additional time to satisfy the objections, the Agency may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued. If the lender is unable to satisfy Agency objectives, then the lender will be informed on their appeal rights as set out in § 1980.80 of this subpart. If the lender writes the Agency within the period allowed requesting additional time to satisfy the objectives, the Agency may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed and otherwise complies with these regulations, the guarantee will be issued. (Renumbered and revised 07-02-99, SPECIAL PN.)

## § 1980.61 (Con.)

(e) Cancellation of obligations. If the conditions for the loan or line of credit are rejected or cannot be met after completion of any appeal, the Agency will prepare and submit to the Finance Office, Form RD 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation." (Renumbered 07-02-99, SPECIAL PN.)

(f) Payment of guarantee fee. The lender will prepare and deliver a Form RD 1980-19, "Guaranteed Loan Closing Report," for each loan or line of credit to be guaranteed and deliver the guarantee fee to the Agency representative who concurrently delivers the Loan Note Guarantee. (Renumbered and revised 07-02-99, SPECIAL PN.)

(g) Authorized Agency representatives to execute forms. State Directors, District Directors, State Program Loan Chiefs, and County Supervisors are authorized to execute the Lender's Agreement, (Form RD 449-35), the Loan Note-Guarantee, and/or the Assignment Guarantee Agreement. (Renumbered and revised 07-02-99, SPECIAL PN.)

§ 1980.62 Lender's sale or assignment of guaranteed portion of loan.

Any sale or assignment by the lender of the guaranteed portion of the loan must be accomplished in accordance with the conditions in Paragraph III of Form RD 449-35. Only guaranteed portions of loans not in payment default as set forth in the terms of the debt instruments may be sold. Should the lender know at the time the loan application is being prepared that it plans to sell or assign any part of the guaranteed portion of the loan as provided in Form RD 449-35, the lender will provide this information with the application to the Agency. (Revised 07-02-99, SPECIAL PN.)

§ 1980.63 Defaults by borrower.

(a) Refer to paragraph X of Form RD 449-35. (Revised 07-02-99, SPECIAL PN.)

(b) The Agency may be required to purchase the guaranteed portion of the loan(s) from holder(s) in the event of default or servicing problems. The County Supervisor will coordinate any request from holder(s) located in close proximity to the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor. The County Supervisor will prepare a Form RD 1980-37, "FmHA Purchase of A Guaranteed Loan Portion," for each holder(s) and follow the instructions on the reverse of the form. (Revised 12-23-96, SPECIAL PN.)

§ 1980.64 Liquidation.

(a) Reference. Refer to Paragraph XI of Form RD 449-35.  
(Revised 07-02-99, SPECIAL PN.)

(b) Lender's option. If a lender has made a loan guaranteed by the Agency under previous regulations, and the lender concludes that liquidation of the guaranteed loan is necessary because of one or more defaults or third party actions that the borrower cannot or will not cure, the lender has the option to liquidate the loan under the provisions of this subpart, or under the provisions of previous regulations. The lender will notify the State Director in writing within 10 days after its decision to liquidate if it desires to proceed under this subpart. (Revised 07-02-99, SPECIAL PN.)

(c) Settlement option. If a lender acquires title to property either through voluntary conveyance or foreclosure proceeding, the Agency may elect to permit the lender the option to calculate the final loss settlement using the net proceeds received at the time of ultimate disposition of such property. The lender must submit its written request for this option to the Agency, and the Agency must agree, prior to the lender submitting any request for estimated loss payment.

§ 1980.65 Protective advances.

Refer to Paragraph XII of Form RD 449-35. (Revised 07-02-99, SPECIAL PN.)

§ 1980.66 Additional loans or advances.

Refer to Paragraph XIII of Form RD 449-35. (Revised 07-02-99, SPECIAL PN.)

§ 1980.67 Bankruptcy. (Revised 07-02-99, SPECIAL PN.)

(a) Reference. Form RD 449-30, "Loan Note Guarantee Report of Loss," will be used for calculations of all estimated and final loss determinations. Payments will be made in accordance with applicable Agency regulations.

(b) Lender's option. If a lender has made a loan guaranteed by the Agency under previous regulations, and the borrower has filed for protection under a reorganization bankruptcy, the lender has the option of requesting an estimated loss payment under the provisions of this part.

§ 1980.68 Lender's request to terminate Loan Note Guarantee.  
(Revised 07-02-99, SPECIAL PN.)

If the Loan Note Guarantee has not automatically terminated, the lender may request the Agency to terminate the Loan Note Guarantee(s) for any reason provided the lender holds all the guaranteed portions of the loan. (See paragraph 12 of Form RD 449-34.) The lender will provide the County Supervisor with a written notice that the loan(s) is (or are) paid in full and/or termination of the Loan Note Guarantee(s), enclosing the original Form(s) RD 449-34 for cancellation.

§§ 1980.69 - 1980.79 [Reserved]

§ 1980.80 Appeals.

Only the borrower, lender, and/or holder can appeal an Agency decision. The borrower and lender must jointly execute the written request for review of an alleged adverse decision made by the Agency and both must participate in the appeal. In cases where the Agency has denied or reduced the amount of final loss payment to the lender, the adverse decision may be appealed by the lender only. A decision by a lender adverse to the interest of the borrower is not a decision by the Agency, whether or not concurred in by the Agency. Appeals will be handled in accordance with directions set out in Subpart B of Part 1900 of this chapter. (Revised 07-12-88, SPECIAL PN.)

§ 1980.81 Access to records of lenders.

Upon request by the Agency, the lender will permit representatives of (or other agencies of the U.S. Department of Agriculture authorized by that Department) to inspect and make copies of any of the records of the lender pertaining to Agency guaranteed loans. Such inspection and copying may be made during regular office hours of the lender, or at any other time the lender and the Agency find convenient.

§ 1980.82 State supplements to this regulation.

Agency State Directors may supplement this regulation subject to National Office review to the extent necessary to properly implement the program in their States.

§ 1980.83 Agency Forms.

(a) Agency forms incorporated in this subpart. Forms RD 449-34, RD 449-35, and RD 449-36 are incorporated in this subpart, made a part hereof, and appear as Appendices A, B, and C in the Federal Register. Copies of the forms may be obtained from any Agency office.  
(Revised 07-02-99, SPECIAL PN.)

(b) Agency forms used for processing and servicing guaranteed loans. The following Agency forms will be used in the processing and servicing of all guaranteed loans, including those loans previously closed where the Agency has issued a Loan Note Guarantee. This does not include all Agency forms that are part of the guaranteed loan or line of credit application which are referenced in this subpart or appropriate program subparts. Refer to appropriate Agency program representatives, the forms manual inserts and directions printed on the form for specific details concerning completion of the forms, number of copies, and distributions. Copies of forms may be obtained from any Agency office.  
(Revised 07-02-99, SPECIAL PN.)

RD

<u>Form No.</u>	<u>Title of Form</u>	<u>Purpose and Code *</u>
1980-7	Notification of Transfer and Assumption of a Guaranteed Loan	Record a transfer assumption of guaranteed from one borrower to another. (1)
1980-19	Guaranteed Loan Closing Report	Used to pay guarantee fee and establish guarantee loan account. (2)
1980-37	FmHA Purchase of a Guaranteed Loan Portion	Used to purchase guaranteed portion of loan. (1)
1980-41	Guaranteed Loan Status Report	Used to update the Agency's records of outstanding balance of guaranteed loan. (3)
1980-42	Notice of Substitution of Lender	Used to change the Agency's record of lenders. (1)
1980-43	Lender's Guaranteed Loan Payment to USDA	Used by lender to transmit payments due the Government as a holder. (3)

§ 1980.83(b) (Con.)

RD

<u>Form No.</u>	<u>Title of Form</u>	<u>Purpose and Code *</u>
1980-44	Guaranteed Loan Borrower Default Status	Used by lender to inform the Agency of borrower default. (3)
1980-45	Notice of Liquidation Responsibility	Used by the Agency to notify Finance Office of liquidation responsibility. (1)
1980-46	Report of Liquidation Expense	Used by the Agency to pay liquidation costs or appraisal fees. (1)
1980-47	Guaranteed Loan Borrower Adjustments	Used by the Agency to adjust guaranteed loan borrower's account. (1)
1980-49	Guaranteed Loan Status Update Adjustment	Used by the Agency to update status elements on guaranteed loans and to adjust subsidy claims. (1)
1980-50	Add, Delete, or Change Guaranteed Loan Borrower Information	Used by the Agency to update guaranteed loan borrower account information. (1)
1980-51	Add, Change or Delete Guaranteed Loan Record	Used by the Agency to update borrower loan record information. (1)
1980-52	Report Request	Used by the Agency to request reports on guaranteed loans. (1)
449-30	Loan Note Guarantee Report of Loss	Used to claim reimbursement for losses. (2)
1980-56	Guaranteed Loan Borrower Deferment	Used by the Agency to document deferral of payments and adjustments to interest rates on guaranteed loans. (1)
1980-57	Reverse Guaranteed Loan Borrower Deferment	Used by the Agency to update accounting system records for reversal of deferment of payments.

RD Instruction 1980-A  
§ 1980.83(b) (Con.)

RD

<u>Form No.</u>	<u>Title of Form</u>	<u>Purpose and Code *</u>
1980-40	Reverse a Report of Liquidation Expense	Used by the Agency to collect appraisal fees recovered from the liquidation of loan assets. (2)
1940-3	Request for Obligation of Funds - Guaranteed Loans	Used by the Agency to obligate guaranteed loan funds, interest assistance funds, and interest rate buydown funds. (1) (Added 02-28-91, SPECIAL PN.)
		* Code: (1) Agency use only. (2) Agency and lender use. (3) Lender use only.

§ 1980.84 Replacement of guaranteed loan documents. (Revised 07-02-99, SPECIAL PN.)

(a) Authorized representative. Except where the evidence of debt was or is a bearer instrument, the State Director is authorized on behalf of the Agency to issue a replacement Loan Note Guarantee, or Assignment Guarantee Agreement which may have been lost, stolen, destroyed, mutilated, or defaced to the lender or holder upon receipt of an acceptable certificate of loss and an indemnity bond. After the required documentation has been received, the State Director will consult with the Regional Office of the General Counsel to assure that all documents are of legal sufficiency before the reissuance of the Loan Note Guarantee, or Assignment Guarantee Agreement. (Revised 07-02-99, SPECIAL PN.)

(b) Requirements. When a Loan Note Guarantee, Contract of Guarantee, or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated, or defaced while in the custody of the lender or holder, the lender will coordinate the activities of the party who seeks the replacement documents and will submit the required documents to the State Director for processing. The requirements for replacement are as follows:

(1) A certificate of loss properly notarized which includes:

(i) Legal name and present address of owner who is requesting the replacement forms.

§ 1980.84(b)(1) (Con.)

(ii) Legal name and address of the lender of record.

(iii) Capacity of person certifying.

(iv) Full identification of the Loan Note Guarantee, or Assignment Guarantee Agreement including the name of the borrower, case number, date of the Loan Note Guarantee, Assignment Guarantee Agreement, face amount of the evidence of debt purchased, date of evidence of debt, present balance of the loan or line of credit, percentages of guarantee and if Assignment Guarantee Agreement, the original named holder and the percentage of the guaranteed portion of the loan assigned to that holder. Any existing parts of the document to be replaced should be attached to the certificate.

(Revised 07-02-99, SPECIAL PN.)

(v) A full statement of circumstances of the loss, theft, or destruction of the Loan Note Guarantee, or Assignment Guarantee Agreement. (Revised 07-02-99, SPECIAL PN.)

(vi) The holder shall present evidence demonstrating current ownership of the Loan Note Guarantee and Note or Assignment Guarantee Agreement. If the present holder is not the same as the original holder, a copy of the endorsement of each successive holder in the chain of transfer from the initial holder to present holder must be included. If copies of the endorsement cannot be obtained, best available records of transfer must be presented to the Agency (e.g., order confirmation, cancelled checks, etc.).



§ 1980.84(b) (Con.)

(2) An indemnity bond acceptable to the Agency shall accompany the request for replacement except when the holder is the United States, a Federal Reserve Bank, a Federal Government corporation, a State or Territory, or the District of Columbia. The bond may be with or without surety. The bond shall be with surety except when the outstanding principal balance and accrued interest due the present holder is less than \$1,000,000 verified by the lender in writing in a Letter of Certification of balance due. The surety shall be a qualified surety company holding a certificate of authority from the Secretary of the Treasury and listed in Treasury Department Circular 580.

(3) All indemnity bonds must be issued and/or payable to the United States of America acting through the Farmers Home Administration. The bond shall be in an amount not less than the unpaid principal and interest. The bond shall save the Agency harmless against any claim or demand which might arise or against any damage, loss, costs, or expenses which might be sustained or incurred by reasons of the loss or replacement of the instruments.

(4) In those cases where the guaranteed loan was closed under the provisions of Paragraph III (A)(2) of Form RD 449-35, known as the "Multi-Note System," the Agency will not attempt to or participate in the obtaining of replacement notes from the borrower. It will be the responsibility of the holder to bear costs of note replacement if the borrower agrees to issue a replacement instrument. Should such note be replaced, the terms of the note cannot be changed. (See Paragraph III (A)(2)(b) of Form RD 449-35 for general conditions for reissued notes.) If the evidence of debt has been lost, stolen, destroyed, mutilated or defaced, such evidence of debt must be replaced before the Agency will replace any instruments. (Revised 07-02-99, SPECIAL PN.)

ADMINISTRATIVE:

A. State Directors will review all documents when presented by the lender to assure all requirements are met.

B. The State Director will contact the Regional OGC for assistance before new guarantee instruments are issued.

C. If the decision is to reissue Loan Note Guarantee(s), Contract of Guarantee(s), or Assignment Guarantee Agreement(s), the following procedure will be followed:

(1) Multi-note system. A new Form RD 449-34 will be prepared using the original face amounts and amounts guaranteed (not outstanding loan balance). At the top of the form type "This Loan Note Guarantee is issued to replace the original dated \_\_\_\_\_ which was (insert "lost, stolen, destroyed, defaced or mutilated).\" Only execute an original for the Holder. Copies may be conformed for the lender and the Agency file. If borrower notes are needed, they must be obtained by the holder from the borrower. The indemnity bond must be kept by the safekeeping.

(2) Assignment Guarantee Agreement system. A new Form RD 449-36 will be prepared using the original amounts except the current principal amount of the loan outstanding should be inserted at item 1 on the face of the document. At the top of the form, type "This Assignment Guarantee Agreement is issued to replace the original dated \_\_\_\_\_ which was lost, stolen, destroyed, defaced or mutilated." Only execute an original for the Holder. Copies may be conformed for the lender and the Agency. If a surety bond is issued, it must be kept in safekeeping.

(3) The lender must execute the replacement forms prior to Agency execution of the same.

(4) Certificates of Incumbency may be provided.

§ 1980.85 Exception authority. (Revised 01-13-89, SPECIAL PN.)

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law, or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. Requests for exceptions must be in writing by the State Director and submitted through the appropriate Assistant Administrator. Requests must be supported with documentation to explain the adverse effect on the Government's interest, proposed alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted. In addition, any request for an exception to § 1980.13(b) of this subpart must document that the lender involved has furnished acceptable evidence of regulation and supervision.

§§1980.86 - 1980.99 [Reserved]

§1980.100 OMB Control number.

The reporting requirement contained in this regulation has been approved by the Office of Management and Budget (OMB) and has been assigned OMB Control number 0575-0024. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 28 hours per response, with an average of 2.08 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, Ag Box 7630, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575-0024), Washington, D.C. 20503. (Revised 10-13-95, SPECIAL PN.)

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